

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of Hong et al.

Appln. No.: 09/512,019

Group Art Unit: 1652

Filed: February 24, 2000

Examiner: R., Hudson

Title: DNA Polymerase Having Ability to Reduce Innate Selective Discrimination Against Fluorescent Dye-Labeled Dideoxynucleotides

October 9, 2002

PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION

Hon. Commissioner of Patents and Trademarks Washington, D.C. 20231

Sir:

This is a Petition to Withdraw a Holding of Abandonment Based on Failure to Receive Office Action.

Pursuant to MPEP 711.03(c), we provide the following explanation of the situation. On September 24, 2002, Examiner Richard Hutson, Ph.D, of Art Unit 1652, contacted the undersigned attorney of record by telephone to inquire whether a response had been filed to the Office Action dated February 13, 2002, to which a shortened statutory period for reply was set to expire on March 13, 2002, and extensions of time were available under the provisions of 37 CFR 1.136(a) up until August 13, 2002. No response was filed by August 13, 2002, and the application was abandoned.

The Examiner's September 24 telephone call was the first time the applicants and the applicants' representative became aware of the February 13, 2002 Office Action. The Examiner then kindly faxed applicant's representative a copy of the Office Action. Applicant's representative searched the applicants' file for this application, including the

file jacket, and searched the docket records, and there was no evidence or record that the Office communication had been received.

The normal procedure in the law offices of applicants' representative, Nash & Titus, LLC, is that on the same day that any official communication having a response due date is received from the U.S. Patent and Trademark Office and opened, it is immediately docketed in three ways: (1) the due date, and each possible monthly extension of time, is recorded in a main docket calendar, which records all due dates for all matters for Nash & Titus, LLC; (2) the due date, and each possible monthly extension of time, is recorded in a docket calendar kept by the applicants' representative, Marlana Titus, which calendar records all due dates for all matters for Marlana Titus; and (3) a post-it note listing the due date, the last possible extension of time, and the type of response needed, is fastened to the file. In this case, it can be seen from the docket calendars, and the undersigned attorney attests, that there is no entry in either the main docket calendar or the attorney's docket calendar relating to this Office Action, nor is there a post-it note anywhere on the applicants' file. As far as applicants' representative can determine, there is no record whatsoever of the Office Action having been received.

Appended here is a copy of (1) the pages in the main docket calendar showing the months of March, 2002 – August, 2002, and (2) the pages in the attorney's docket calendar showing the months of March, 2002 – August, 2002. These pages show that, for the six-month period of time inclusive of the due date of March 13, 2002 and all monthly extensions of time through August 13, 2002, there is no record of the Office Action having been received. (We note that applications are referenced in both docket calendars per their respective docket number, which in this case is "LEE109".)

Hong et al. - Serial No. 09512,019

Also appended here is our response to the Office Action, which would have been

filed by the first due date of March 13, 2002 had the Office Action been received by

applicants' representative. We believe that providing this response is appropriate with

this Petition, but if it is not please disregard it.

Lastly, it is noted that Examiner Hutson indicated that he would not be mailing

out an official notice of abandonment, although the application was officially in

abandoned status, because applicants' representative had indicated that a Petition would

be filed along with a response to the Office Action.

No petition fee is believed to be necessary, but if one is deemed necessary, please

charge it to PTO Deposit Account 500867, for which purpose this paper is submitted in

duplicate.

If there are any questions regarding this Petition or response, please contact the

undersigned at (301) 762-8214.

By:

Marlana Titus, Reg. No. 35,843

Tel. No. (301) 924-9600

Nash & Titus, LLC 3415 Brookeville Road, Suite 1000 Brookeville, Maryland 20833

3



TRANSMITTAL LETTER (General - Patent Pending)

Docket No. Lee109

In Re Application Of: Hong et al.

Serial No.

Filing Date

Examiner

Group Art Unit

09/812,019

February 24, 2000

R. Hutson

1652

DNA Polymerase Having Ability to Reduce Innate Selective Discrimination Against Fluorescent

Dye-Labeled Dideoxynucleotides

RECEIVED

OCT 1 8 2002

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

TECH CENTER 1600/2900

Transmitted herewith is:

- (1) Petition to Withdraw Holidng of Abandonment Based on Failure to Receive Office Action
- (2) Response to Restriction Requirement
- (3) Copy of docket calendar for Nash & Titus, LLC, for months of March -- August, 2002
- (4) Copy of docket calen lar for Marlana Titus, for months of March -- August, 2002
- (5) Postcard receipt listing all enclosed items

in the above identified application.

- No additional fee is required.
- A check in the amount of

is attached.

The Assistant Commissioner is hereby authorized to charge and credit Deposit Account No. as described below. A duplicate copy of this sheet is enclosed.

500867

Charge the amount of

Credit any overpayment.

Charge any additional fee required.

Dated: October 9, 2002

Marlana Titus, Reg. No. 35,843

Nash & Titus, LLC

3415 Brookeville Road

Suite 1000

Brookeville, MD 20833

(301) 924-9600

I certify that this document and fee is being deposited with the U.S. Postal Service as orOct. 9, 2002

first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C.

20231.

Signature of Person Mailing Correspondence

Marlana Titus

Typed or Printed Name of Person Mailing Correspondence

CC:

Dicket Calender for Marlena Titus

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